

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
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CHAPTER 236

HOUSE BILL 2638

AN ACT

AMENDING SECTIONS 9-461.05 AND 11-821, ARIZONA REVISED STATUTES; RELATING TO
MUNICIPAL AND COUNTY PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-461.05, Arizona Revised Statutes, is amended to
3 read:

4 9-461.05. General plans; authority; scope

5 A. Each planning agency shall prepare and the governing body of each
6 municipality shall adopt a comprehensive, long-range general plan for the
7 development of the municipality. The planning agency shall coordinate the
8 production of its general plan with the creation of the state land department
9 conceptual land use plans under title 37, chapter 2, article 5.1 and shall
10 cooperate with the state land department regarding integrating the conceptual
11 state land use plans into the municipality's general land use plan. The
12 general plan shall include provisions that identify changes or modifications
13 to the plan that constitute amendments and major amendments. The plan shall
14 be adopted and readopted in the manner prescribed by section 9-461.06.

15 B. The general plan shall be so prepared that all or individual
16 elements of it may be adopted by the governing body and that it may be made
17 applicable to all or part of the territory of the municipality.

18 C. The general plan shall consist of a statement of community goals
19 and development policies. It shall include maps, any necessary diagrams and
20 text setting forth objectives, principles, standards and plan proposals. The
21 plan shall include the following elements:

22 1. A land use element that:

23 (a) Designates the proposed general distribution and location and
24 extent of such uses of the land for housing, business, industry, agriculture,
25 recreation, education, public buildings and grounds, open space and other
26 categories of public and private uses of land as may be appropriate to the
27 municipality.

28 (b) Includes a statement of the standards of population density and
29 building intensity recommended for the various land use categories covered by
30 the plan.

31 (c) Identifies specific programs and policies that the municipality
32 may use to promote infill or compact form development activity and locations
33 where those development patterns should be encouraged.

34 (d) Includes consideration of air quality and access to incident solar
35 energy for all general categories of land use.

36 (e) Includes policies that address maintaining a broad variety of land
37 uses including the range of uses existing in the municipality when the plan
38 is adopted, readopted or amended.

39 (f) For cities and towns with territory in the vicinity of a military
40 airport or ancillary military facility as defined in section 28-8461,
41 includes consideration of military airport or ancillary military facility
42 operations. On or before December 31, 2005, if a city or town includes land
43 in a high noise or accident potential zone as defined in section 28-8461, the
44 city or town shall identify the boundaries of the high noise or accident
45 potential zone in its general plan for purposes of planning land uses in the

1 high noise or accident potential zone that are compatible with the operation
2 of the military airport or ancillary military facility pursuant to section
3 28-8481, subsection J.

4 2. A circulation element consisting of the general location and extent
5 of existing and proposed freeways, arterial and collector streets, bicycle
6 routes and any other modes of transportation as may be appropriate, all
7 correlated with the land use element of the plan.

8 D. For cities and towns having a population of more than two thousand
9 five hundred persons but less than ten thousand persons and whose population
10 growth rate exceeded an average of two per cent per year for the ten year
11 period before the most recent United States decennial census and for cities
12 and towns having a population of ten thousand or more persons according to
13 the most recent United States decennial census, the general plan shall
14 include, and for other cities and towns the general plan may include:

15 1. An open space element that includes:

16 (a) A comprehensive inventory of open space areas, recreational
17 resources and designations of access points to open space areas and
18 resources.

19 (b) An analysis of forecasted needs, policies for managing and
20 protecting open space areas and resources and implementation strategies to
21 acquire additional open space areas and further establish recreational
22 resources.

23 (c) Policies and implementation strategies designed to promote a
24 regional system of integrated open space and recreational resources and a
25 consideration of any existing regional open space plans.

26 2. A growth area element, specifically identifying those areas, if
27 any, that are particularly suitable for planned multimodal transportation and
28 infrastructure expansion and improvements designed to support a planned
29 concentration of a variety of uses, such as residential, office, commercial,
30 tourism and industrial uses. This element shall include policies and
31 implementation strategies that are designed to:

32 (a) Make automobile, transit and other multimodal circulation more
33 efficient, make infrastructure expansion more economical and provide for a
34 rational pattern of land development.

35 (b) Conserve significant natural resources and open space areas in the
36 growth area and coordinate their location to similar areas outside the growth
37 area's boundaries.

38 (c) Promote the public and private construction of timely and
39 financially sound infrastructure expansion through the use of infrastructure
40 funding and financing planning that is coordinated with development activity.

41 3. An environmental planning element that contains analyses, policies
42 and strategies to address anticipated effects, if any, of plan elements on
43 air quality, water quality and natural resources associated with proposed
44 development under the general plan. The policies and strategies to be
45 developed under this element shall be designed to have community-wide

1 applicability and shall not require the production of an additional
2 environmental impact statement or similar analysis beyond the requirements of
3 state and federal law.

4 4. A cost of development element that identifies policies and
5 strategies that the municipality will use to require development to pay its
6 fair share toward the cost of additional public service needs generated by
7 new development, with appropriate exceptions when in the public interest.
8 This element shall include:

9 (a) A component that identifies various mechanisms that are allowed by
10 law and that can be used to fund and finance additional public services
11 necessary to serve the development, including bonding, special taxing
12 districts, development fees, in lieu fees, facility construction, dedications
13 and service privatization.

14 (b) A component that identifies policies to ensure that any mechanisms
15 that are adopted by the municipality under this element result in a
16 beneficial use to the development, bear a reasonable relationship to the
17 burden imposed on the municipality to provide additional necessary public
18 services to the development and otherwise are imposed according to law.

19 5. A water resources element that addresses:

20 (a) The known legally and physically available surface water,
21 groundwater and effluent supplies.

22 (b) The demand for water that will result from future growth projected
23 in the general plan, added to existing uses.

24 (c) An analysis of how the demand for water that will result from
25 future growth projected in the general plan will be served by the water
26 supplies identified in subdivision (a) of this paragraph or a plan to obtain
27 additional necessary water supplies.

28 E. The general plan shall include for cities of fifty thousand persons
29 or more and may include for cities of less than fifty thousand persons the
30 following elements or any part or phase of the following elements:

31 1. A conservation element for the conservation, development and
32 utilization of natural resources, including forests, soils, rivers and other
33 waters, harbors, fisheries, wildlife, minerals and other natural resources.
34 The conservation element may also cover:

35 (a) The reclamation of land.

36 (b) Flood control.

37 (c) Prevention and control of the pollution of streams and other
38 waters.

39 (d) Regulation of the use of land in stream channels and other areas
40 required for the accomplishment of the conservation plan.

41 (e) Prevention, control and correction of the erosion of soils,
42 beaches and shores.

43 (f) Protection of watersheds.

1 2. A recreation element showing a comprehensive system of areas and
2 public sites for recreation, including the following and, if practicable,
3 their locations and proposed development:

- 4 (a) Natural reservations.
- 5 (b) Parks.
- 6 (c) Parkways and scenic drives.
- 7 (d) Beaches.
- 8 (e) Playgrounds and playfields.
- 9 (f) Open space.
- 10 (g) Bicycle routes.
- 11 (h) Other recreation areas.

12 3. The circulation element provided for in subsection C, paragraph 2
13 of this section shall also include for cities of fifty thousand persons or
14 more and may include for cities of less than fifty thousand persons
15 recommendations concerning parking facilities, building setback requirements
16 and the delineations of such systems on the land, a system of street naming
17 and house and building numbering and other matters as may be related to the
18 improvement of circulation of traffic. The circulation element may also
19 include:

20 (a) A transportation element showing a comprehensive transportation
21 system, including locations of rights-of-way, terminals, viaducts and grade
22 separations. This element of the plan may also include port, harbor,
23 aviation and related facilities.

24 (b) A transit element showing a proposed system of rail or transit
25 lines or other mode of transportation as may be appropriate.

26 4. A public services and facilities element showing general plans for
27 police, fire, emergency services, sewage, refuse disposal, drainage, local
28 utilities, rights-of-way, easements and facilities for them.

29 5. A public buildings element showing locations of civic and community
30 centers, public schools, libraries, police and fire stations and other public
31 buildings.

32 6. A housing element consisting of standards and programs for the
33 elimination of substandard dwelling conditions, for the improvement of
34 housing quality, variety and affordability and for provision of adequate
35 sites for housing. This element shall contain an identification and analysis
36 of existing and forecasted housing needs. This element shall be designed to
37 make equal provision for the housing needs of all segments of the community
38 regardless of race, color, creed or economic level.

39 7. A conservation, rehabilitation and redevelopment element consisting
40 of plans and programs for:

- 41 (a) The elimination of slums and blighted areas.
- 42 (b) Community redevelopment, including housing sites, business and
43 industrial sites and public building sites.
- 44 (c) Neighborhood preservation and revitalization.
- 45 (d) Other purposes authorized by law.

1 8. A safety element for the protection of the community from natural
2 and artificial hazards including features necessary for such protection as
3 evacuation routes, peak load water supply requirements, minimum road widths
4 according to function, clearances around structures and geologic hazard
5 mapping in areas of known geologic hazards.

6 9. A bicycling element consisting of proposed bicycle facilities such
7 as bicycle routes, bicycle parking areas and designated bicycle street
8 crossing areas.

9 10. AN ENERGY ELEMENT THAT INCLUDES:

10 (a) A COMPONENT THAT IDENTIFIES POLICIES THAT ENCOURAGE AND PROVIDE
11 INCENTIVES FOR EFFICIENT USE OF ENERGY.

12 (b) AN ASSESSMENT THAT IDENTIFIES POLICIES AND PRACTICES THAT PROVIDE
13 FOR GREATER USES OF RENEWABLE ENERGY SOURCES.

14 F. The water resources element of the general plan does not require:

15 1. New independent hydrogeologic studies.

16 2. The city or town to be a water service provider.

17 G. The land use element of a general plan of a city with a population
18 of more than one million persons shall include protections from encroaching
19 development for any shooting range that is owned by this state and that is
20 located within or adjacent to the exterior municipal boundaries on or before
21 January 1, 2004. The general plan shall establish land use categories within
22 at least one-half mile from the exterior boundaries of the shooting range
23 that are consistent with the continued existence of the shooting range and
24 that exclude incompatible uses such as residences, schools, hotels, motels,
25 hospitals or churches except that land zoned to permit these incompatible
26 uses on the ~~effective date of this amendment to this section~~ AUGUST 25, 2004
27 are exempt from this exclusion. For the purposes of this subsection,
28 "shooting range" means a permanently located and improved area that is
29 designed and operated for the use of rifles, shotguns, pistols, silhouettes,
30 skeet, trap, black powder or any other similar sport shooting in an outdoor
31 environment. Shooting range does not include:

32 1. Any area for the exclusive use of archery or air guns.

33 2. An enclosed indoor facility that is designed to offer a totally
34 controlled shooting environment and that includes impenetrable walls, floor
35 and ceiling, adequate ventilation, lighting systems and acoustical treatment
36 for sound attenuation suitable for the range's approved use.

37 3. A national guard facility located in a city or town with a
38 population of more than one million persons.

39 4. A facility that was not owned by this state before January 1, 2002.

40 H. The policies and strategies to be developed under these elements
41 shall be designed to have community-wide applicability and this section does
42 not authorize the imposition of dedications, exactions, fees or other
43 requirements that are not otherwise authorized by law.

1 Sec. 2. Section 11-821, Arizona Revised Statutes, is amended to read:
2 11-821. County plan; definitions

3 A. The commission shall formulate and the board of supervisors shall
4 adopt or readopt a comprehensive long-term county plan for the development of
5 the area of jurisdiction in the manner prescribed by this article. The
6 planning commission shall coordinate the production of the county plan with
7 the creation of the conceptual state land use plans under title 37, chapter
8 2, article 5.1. The county plan, with the accompanying maps, plats, charts
9 and descriptive matter, shall show the commission's recommendations for the
10 development of the area of jurisdiction together with the general zoning
11 regulations. The county plan shall be made with the general purpose of
12 guiding and accomplishing a coordinated, adjusted and harmonious development
13 of the area of jurisdiction. In the preparation of the county plan the
14 commission shall make surveys and studies of the present conditions and
15 prospective future growth of the area of the jurisdiction. The planning
16 commission shall cooperate with the state land department regarding
17 integrating the conceptual state land use plans into the county plan. The
18 county plan shall include provisions that identify changes or modifications
19 that constitute amendments and major amendments to the plan.

20 B. In addition to the other matters that are required or authorized
21 under this section and article 1 of this chapter, the county plan:

22 1. Shall provide for zoning, shall show the zoning districts
23 designated as appropriate for various classes of residential, business and
24 industrial uses and shall provide for the establishment of setback lines and
25 other plans providing for adequate light, air and parking facilities and for
26 expediting traffic within the districts.

27 2. May establish the percentage of a lot or parcel which may be
28 covered by buildings, and the size of yards, courts and other open spaces.

29 3. Shall consider access to incident solar energy.

30 4. May provide for retirement community zoning districts.

31 5. May provide for the regulation and use of business licenses, adult
32 oriented business manager permits and adult service provider permits in
33 conjunction with the establishment or operation of adult oriented businesses
34 and facilities, including adult arcades, adult bookstores or video stores,
35 cabarets, adult live entertainment establishments, adult motion picture
36 theaters, adult theaters, massage establishments and nude model studios.
37 With respect to cabarets, the plan shall not conflict with specific statutory
38 or valid regulatory requirements applicable to persons licensed to dispense
39 alcoholic beverages, but the plan may include regulation of the age and
40 conduct of erotic entertainers in a manner at least as restrictive as rules
41 adopted under title 4.

42 C. In addition to the other matters that are required or authorized
43 under this section and article 1 of this chapter, for counties having a
44 population of more than one hundred twenty-five thousand persons according to

1 the most recent United States decennial census, the county plan shall
2 include, and for other counties the county plan may include:

3 1. Planning for land use that designates the proposed general
4 distribution and location and extent of uses of the land for housing,
5 business, industry, agriculture, recreation, education, public buildings and
6 grounds, open space and other categories of public and private uses of land
7 appropriate to the county. The land use plan shall include:

8 (a) A statement of the standards of population density and building
9 intensity recommended for the various land use categories covered by the
10 plan.

11 (b) Specific programs and policies that the county may use to promote
12 compact form development activity and locations where those development
13 patterns should be encouraged.

14 (c) Consideration of air quality and access to incident solar energy
15 for all general categories of land use.

16 (d) Policies that address maintaining a broad variety of land uses
17 including the range of uses existing in the county at the time the plan is
18 adopted, readopted or amended.

19 2. Planning for circulation consisting of the general location and
20 extent of existing and proposed freeways, arterial and collector streets,
21 bicycle routes and any other modes of transportation as may be appropriate,
22 all correlated with the land use plan under paragraph 1 of this subsection.

23 3. Planning for water resources that addresses:

24 (a) The known legally and physically available surface water,
25 groundwater and effluent supplies.

26 (b) The demand for water that will result from future growth projected
27 in the county plan, added to existing uses.

28 (c) An analysis of how the demand for water that will result from
29 future growth projected in the comprehensive plan will be served by the water
30 supplies identified in subdivision (a) of this paragraph or a plan to obtain
31 additional necessary water supplies.

32 4. PLANNING FOR ENERGY USE THAT:

33 (a) ENCOURAGES AND PROVIDES INCENTIVES FOR EFFICIENT USE OF ENERGY.

34 (b) IDENTIFIES POLICIES AND PRACTICES FOR GREATER USE OF RENEWABLE
35 ENERGY.

36 D. In addition to the other matters that are required or authorized
37 under this section and article 1 of this chapter, for counties having a
38 population of more than two hundred thousand persons according to the most
39 recent United States decennial census, the county plan shall include, and for
40 other counties the county plan may include:

41 1. Planning for open space acquisition and preservation. The open
42 space plan shall include:

43 (a) A comprehensive inventory of open space areas, recreational
44 resources and designations of access points to open space areas and
45 resources.

1 (b) An analysis of forecasted needs, policies for managing and
2 protecting open space areas and resources and implementation strategies to
3 acquire additional open space areas and further establish recreational
4 resources.

5 (c) Policies and implementation strategies designed to promote a
6 regional system of integrated open space and recreational resources and a
7 consideration of any existing regional open space plan.

8 2. Planning for growth areas, specifically identifying those areas, if
9 any, that are particularly suitable for planned multimodal transportation and
10 infrastructure expansion and improvements designed to support a planned
11 concentration of a variety of uses, such as residential, office, commercial,
12 tourism and industrial uses. The mixed use planning shall include policies
13 and implementation strategies that are designed to:

14 (a) Make automobile, transit and other multimodal circulation more
15 efficient, make infrastructure expansion more economical and provide for a
16 rational pattern of land development.

17 (b) Conserve significant natural resources and open areas in the
18 growth area and coordinate their location to similar areas outside the growth
19 area's boundaries.

20 (c) Promote the public and private construction of timely and
21 financially sound infrastructure expansion through the use of infrastructure
22 funding and financing planning that is coordinated with development activity.

23 3. An environmental planning element that contains analysis ANALYSES,
24 policies and strategies to address anticipated effects, if any, of plan
25 elements on air quality, water quality and natural resources associated with
26 proposed development under the comprehensive plan. The policies and
27 strategies to be developed under this element shall be designed to have
28 countywide applicability and shall not require the production of an
29 additional environmental impact statement or similar analysis beyond the
30 requirements of state and federal law.

31 4. A cost of development element that identifies policies and
32 strategies that the county will use to require development to pay its fair
33 share toward the cost of additional public facility needs generated by new
34 development, with appropriate exceptions when in the public interest. This
35 element shall include:

36 (a) A component that identifies various mechanisms that are allowed by
37 law and that can be used to fund and finance additional public services
38 necessary to serve the development, including bonding, special taxing
39 districts, development fees, in lieu fees and facility construction,
40 dedications and privatization.

41 (b) A component that identifies policies to ensure that any mechanisms
42 that are adopted by the county under this element result in a beneficial use
43 to the development, bear a reasonable relationship to the burden imposed on
44 the county to provide additional necessary public facilities to the
45 development and otherwise are imposed according to law.

1 E. The water resources element of the comprehensive plan does not
2 require:

- 3 1. New independent hydrogeologic studies.
- 4 2. The county to be a water service provider.

5 F. To carry out the purposes of this article, the board may adopt
6 overlay zoning districts and regulations applicable to particular buildings,
7 structures and land within individual zones. For the purposes of this
8 subsection, "overlay zoning district" means a special zoning district that
9 includes regulations which modify regulations in another zoning district with
10 which the overlay zoning district is combined. Overlay zoning districts and
11 regulations shall be adopted pursuant to section 11-829. The provisions of
12 overlay zoning shall apply retroactively to authorize overlay zoning
13 districts and regulations adopted before April 20, 1993.

14 G. The policies and strategies to be developed under these elements
15 shall be designed to have regional applicability.

16 H. This section does not authorize:

17 1. The imposition of dedications, exactions, fees or other
18 requirements that are not otherwise authorized by law.

19 2. The regulation or restriction of the use or occupation of land or
20 improvements for railroad, mining, metallurgical, grazing or general
21 agricultural purposes, if the tract concerned is five or more contiguous
22 commercial acres.

23 I. For the purposes of this section:

24 1. "Adult arcade" means any place to which the public is permitted or
25 invited and in which coin-operated or slug-operated or electronically,
26 electrically or mechanically controlled still or motion picture machines,
27 projectors or other image producing devices are maintained to show images
28 involving specific sexual activities or specific anatomical areas to persons
29 in booths or viewing rooms.

30 2. "Adult bookstore or video store" means a commercial establishment
31 that offers for sale or rent any of the following as one of its principal
32 business purposes:

33 (a) Books, magazines, periodicals or other printed matter,
34 photographs, films, motion pictures, videocassettes or reproductions or
35 slides or other visual representations that depict or describe specific
36 sexual activities or specific anatomical areas.

37 (b) Instruments, devices or paraphernalia that are designed for use in
38 connection with specific sexual activities.

39 3. "Adult live entertainment establishment" means an establishment
40 that features either:

41 (a) Persons who appear in a state of nudity.

42 (b) Live performances that are characterized by the exposure of
43 specific anatomical areas or specific sexual activities.

44 4. "Adult motion picture theater" means a commercial establishment in
45 which for any form of consideration films, motion pictures, videocassettes,

1 slides or other similar photographic reproductions that are characterized by
2 the depiction or description of specific sexual activities or specific
3 anatomical areas are predominantly shown.

4 5. "Adult oriented business" means adult arcades, adult bookstores or
5 video stores, cabarets, adult live entertainment establishments, adult motion
6 picture theaters, adult theaters, massage establishments that offer adult
7 service or nude model studios.

8 6. "Adult oriented business manager" means a person on the premises of
9 an adult oriented business who is authorized to exercise overall operational
10 control of the business.

11 7. "Adult service" means dancing, serving food or beverages, modeling,
12 posing, wrestling, singing, reading, talking, listening or other performances
13 or activities conducted for any consideration in an adult oriented business
14 by a person who is nude or seminude during all or part of the time that the
15 person is providing the service.

16 8. "Adult service provider" or "erotic entertainer" means any natural
17 person who provides an adult service.

18 9. "Adult theater" means a theater, concert hall, auditorium or
19 similar commercial establishment that predominantly features persons who
20 appear in a state of nudity or who engage in live performances that are
21 characterized by the exposure of specific anatomical areas or specific sexual
22 activities.

23 10. "Cabaret" means an adult oriented business licensed to provide
24 alcoholic beverages pursuant to title 4, chapter 2, article 1.

25 11. "Discernibly turgid state" means the state of being visibly
26 swollen, bloated, inflated or distended.

27 12. "Massage establishment" means an establishment in which a person,
28 firm, association or corporation engages in or permits massage activities,
29 including any method of pressure on, friction against, stroking, kneading,
30 rubbing, tapping, pounding, vibrating or stimulating of external soft parts
31 of the body with the hands or with the aid of any mechanical apparatus or
32 electrical apparatus or appliance. This paragraph does not apply to:

33 (a) Physicians WHO ARE licensed pursuant to title 32, chapter 7, 8,
34 13, 14 or 17.

35 (b) Registered nurses, licensed practical nurses or technicians who
36 are acting under the supervision of a physician WHO IS licensed pursuant to
37 title 32, chapter 13 or 17.

38 (c) Persons who are employed or acting as trainers for a bona fide
39 amateur, semiprofessional or professional athlete or athletic team.

40 (d) Persons who are licensed pursuant to title 32, chapter 3 or 5 if
41 the activity is limited to the head, face or neck.

42 13. "Nude model studio" means a place in which a person who appears in
43 a state of nudity or who displays specific anatomical areas is observed,
44 sketched, drawn, painted, sculptured, photographed or otherwise depicted by
45 other persons who pay money or other consideration. Nude model studio does

1 not include a proprietary school that is licensed by this state, a college,
2 community college or university that is supported entirely or in part by
3 taxation, a private college or university that maintains and operates
4 educational programs in which credits are transferable to a college,
5 community college or university that is supported entirely or in part by
6 taxation or a structure to which the following apply:

7 (a) A sign is not visible from the exterior of the structure and no
8 other advertising appears indicating that a nude person is available for
9 viewing.

10 (b) A student must enroll at least three days in advance of a class in
11 order to participate.

12 (c) No more than one nude or seminude model is on the premises at any
13 time.

14 14. "Nude", "nudity" or "state of nudity" means any of the following:

15 (a) The appearance of a human anus, genitals or A female breast below
16 a point immediately above the top of the areola.

17 (b) A state of dress that fails to opaquely cover a human anus,
18 genitals or A female breast below a point immediately above the top of the
19 areola.

20 15. "Principal business purposes" means that a commercial establishment
21 derives fifty per cent or more of its gross income from the sale or rental of
22 items listed in paragraph 2 of this subsection.

23 16. "Seminude" means a state of dress in which clothing covers no more
24 than the genitals, pubic region and female breast below a point immediately
25 above the top of the areola, as well as portions of the body that are covered
26 by supporting straps or devices.

27 17. "Specific anatomical areas" means any of the following:

28 (a) A human anus, genitals, THE pubic region or a female breast below
29 a point immediately above the top of the areola that is less than completely
30 and opaquely covered.

31 (b) Male genitals in a discernibly turgid state even if completely and
32 opaquely covered.

33 18. "Specific sexual activities" means any of the following:

34 (a) Human genitals in a state of sexual stimulation or arousal.

35 (b) Sex acts, normal or perverted, actual or simulated, including acts
36 of human masturbation, sexual intercourse, oral copulation or sodomy.

37 (c) Fondling or other erotic touching of the human genitals, pubic
38 region, buttocks, anus or female breast.

39 (d) Excretory functions as part of or in connection with any of the
40 activities under subdivision (a), (b) or (c) of this paragraph.

APPROVED BY THE GOVERNOR MAY 30, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 30, 2007.